IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15850 of 2005

Between:

Kalagara Vighneswara rao S/o Late Subbarao
R/o Buttaigudem Village & Mandal, West Godavari District

..... PETITIONER

AND

1 The Commissioner and Director of Settlement, Survey Bhavan, H. NO. 1088, Narayanaguda, Hyderabad
2 Sri. Thodam Sankuru S/o Pedapentaiah
R/o Buttaigudem Village & Mandal, West Godavari District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue order, direction, Writ more particularly one in the nature of Writ of Mandmaus to declare the proceedings in A.P. No. 2/2004 H1 on the file of 1st respondent is illegal, arbitrary and contrary to the provisions of A.P. (Schedule Area Ryothwari Settlement) Rules 1971 and consequentially set aside the same.

Counsel for the Petitioner : Mr.P.R.K.AMERANDRA KUMAR

Counsel for Respondent No.1: GP FOR REVENUE

Counsel for Respondent No.2: --

The Court at the admission stage, made the following :

ORDER:

This Writ Petition is filed against the notice, dated 04.05.2005 issued by the first respondent intimating the date of hearing of the Appeal.

It is the case of the petitioner that himself and his family members are in possession and enjoyment of the schedule property in an extent of Ac.9.05 cents in R.S.No.637 of Buttaigudem Village and Mandal in West Godavari District. Originally, the said land was purchased by his father through a possessory agreement of sale, dated 02.05.1969 from another non-tribal and subsequently, registration was effected. From the date of possessory agreement of sale, his father has been cultivating the said land till his death. Thereafter, himself and his family members are enjoying the schedule land. Since the said land is situated in estate village of Gutala Zamin Estate, after commencement of A.P. (Scheduled Areas Ryothwari Settlement) Regulation 1970 i.e., Regulation II/1970, his father approached the Settlement Officer, Kovvur for grant of Ryothwari Patta in respect of the said land and the Settlement Officer after considering the entire material on record, granted Ryothwari Patta through Orders dated 27.07.1982. Since, no appeal has been filed, the Orders of the Settlement Officer, Kovvur dated 27.07.1982 became final. It is his further case that after 22 years, the second respondent who is no way connected with the schedule land, preferred an appeal before the first respondent challenging the Orders of the Settlement Officer, dated 27.07.1982. On such appeal, the first respondent admitted the case in A.P.No.2 of 2004 H1 and posted the matter for hearing. Hence, the Writ Petition.

There is no cause of action to file this Writ Petition under Article 226 of the Constitution of India. It is for the petitioner to appear before the Appellate Authority on the particular day and state as to how the appeal is not maintainable instead of filing the Writ Petition.

Accordingly, the Writ Petition is dismissed with costs payable to the Court Officers' Association.

(ELIPE DHARMA RAO, J)

Dt:21.07.2005

bsv/lvl

To

1 The Commissioner and Director of Settlement, Survey Bhavan, H. NO. 1088, Narayanaguda, Hyderabad

2. Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad (OUT)

3. Two CD copies